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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,502	07/09/2001	Chang-Hoi Koo	678-703 (P9857)	4908
28249	7590	02/07/2006	EXAMINER	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			HOM, SHICK C	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/901,502	KOO ET AL.	
	Examiner	Art Unit	
	Shick C. Horn	2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 31-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 31-39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/28/05 have been fully considered but they are not persuasive.
2. In response to applicant's arguments in page 8 lines 1-13 of the Remarks, the recitation of using a HARQ (Hybrid Automatic Repeat request) scheme for performing retransmission in a CDMA (Code Division Multiple Access) mobile communication system of packet data including a sequence number has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).
3. In response to applicant's argument in page 8 line 14 page 9 line 4 that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., performing an initial transmission from A to B and a retransmission of the same information from A to B over a different channel after receiving a retransmission

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request message in A from B) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In page 9 lines 5-18, applicant argued that Maxemchuk in view of Mouly et al. fail to teach retransmitting packet data and side information over a dedicated channel or over a common channel is not persuasive because Maxemchuk in col. 8 lines 7-20 recite retransmission signal over another channel having different frequency for the purpose of avoiding interference and Mouly et al. in Fig. 1 shows the dedicated channel and shared channel clearly reads on retransmitting packet data and side information over a dedicated channel or over a common channel as claimed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

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art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maxemchuk (6,614,773) in view of Mouly et al. (4,866,788).

Regarding claims 1-11:

Maxemchuk discloses a method for transmitting packet data and side information including a sequence number of the packet data in a CDMA (Code Division Multiple Access) mobile communication system employing a HARQ (Hybrid Automatic Repeat request) scheme for performing retransmission after an initial

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transmission (see col. 1 lines 41-62 which recite the CDMA cellular system transmitting data in the form of packets and col. 2 lines 22-26 which recite transmitting information packets and embedded sequences), comprising the steps of: transmitting the packet data and the side information over a first channel when performing the initial transmission; and retransmitting the packet data and the side information over a second channel (see col. 8 which recite the step of transmitting signals over one channel and retransmitting over another channel clearly anticipate transmitting the packet data and the side information over a first channel when performing the initial transmission; and retransmitting the packet data and the side information over a second channel) as in claims 1, 4, 7, 10.

For claims 1-11, Maxemchuk discloses all the subject matter of the claimed invention with the exception of retransmission being in response to a retransmission request message; wherein the first channel being a common channel and the second channel being a dedicated channel as in claim 1, the first channel being the dedicated channel and the second channel being the common channel as in claim 7, the first and second channels being the first and second dedicated channels, respectively, as in claim 10, and packet data being transmitted in the dedicated channel and side information being transmitted in the common channel as

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in claim 4; wherein the common channel is a physical downlink shared channel (DSCH) as in claims 2, 6, 9; and wherein each of the first and the second dedicated channels is a dedicated physical channel (DPCH) as in claims 3, 5, 8, 11.

Mouly et al. from the same or similar fields of endeavor teach that it is known to provide retransmission being in response to a retransmission request message (see col. 1 lines 17-36 which recite retransmission for the request and col. 2 lines 41-59 which recite retransmission being dependent of power levels and the activity of the channel); wherein the first channel being a common channel and the second channel being a dedicated channel as in claim 1, the first channel being the dedicated channel and the second channel being the common channel as in claim 7, the first and second channels being the first and second dedicated channels, respectively, as in claim 10; wherein the common channel is a physical downlink shared channel (DSCH) as in claims 2, 6, 9; and wherein each of the first and the second dedicated channels is a dedicated physical channel (DPCH) as in claims 3, 5, 8, 11 (see Fig. 1 which shows the use of the two dedicated channel and the shared channel which clearly anticipate the use of a dedicated channel, common channel, and two dedicated channels as in claims 1, 7, 10, and col. 3 lines 9-17 which recite the request being transmitted

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over the shared channel and data over the dedicated channel clearly anticipate the side information being transmitter over the common channel and packet data over the dedicated channel as in claim 4). Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide retransmission being in response to a retransmission request message; wherein the first channel being a common channel and the second channel being a dedicated channel, the first channel being the dedicated channel and the second channel being the common channel, the first and second channels being the first and second dedicated channels, respectively, and packet data being transmitted in the dedicated channel and side information being transmitted in the common channel; wherein the common channel is a physical downlink shared channel (DSCH); and wherein each of the first and the second dedicated channels is a dedicated physical channel (DPCH) as taught by Mouly et al. in the communications method of Maxemchuk. The retransmission being in response to a retransmission request message; wherein the first channel being a common channel and the second channel being a dedicated channel, the first channel being the dedicated channel and the second channel being the common channel, the first and second channels being the first and second dedicated channels,

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respectively, and packet data being transmitted in the dedicated channel and side information being transmitted in the common channel can be implemented by providing retransmission request message, the shared channel, and dedicated channels in the two-channel approach of Maxemchuk. The motivation for using retransmission request message, the shared channel, and dedicated channels as taught by Mouly et al. in the communication method of Maxemchuk being that it provides more reliability for the system since the system can better avoid repeated collision or transmission failure by using a different channel for retransmission.

Allowable Subject Matter

7. Claims 31-39 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action

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is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C. Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Monday to Friday with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

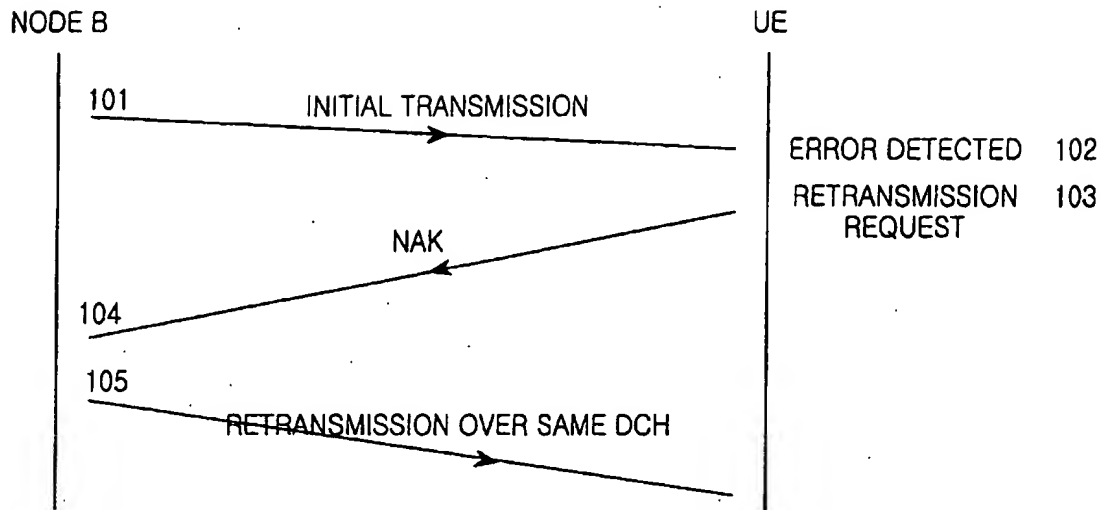
SH



DANG TON
PRIMARY EXAMINER

REPLACEMENT DRAWING

1/39



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O.K.

FIG.1
(PRIOR ART)

REPLACEMENT DRAWING

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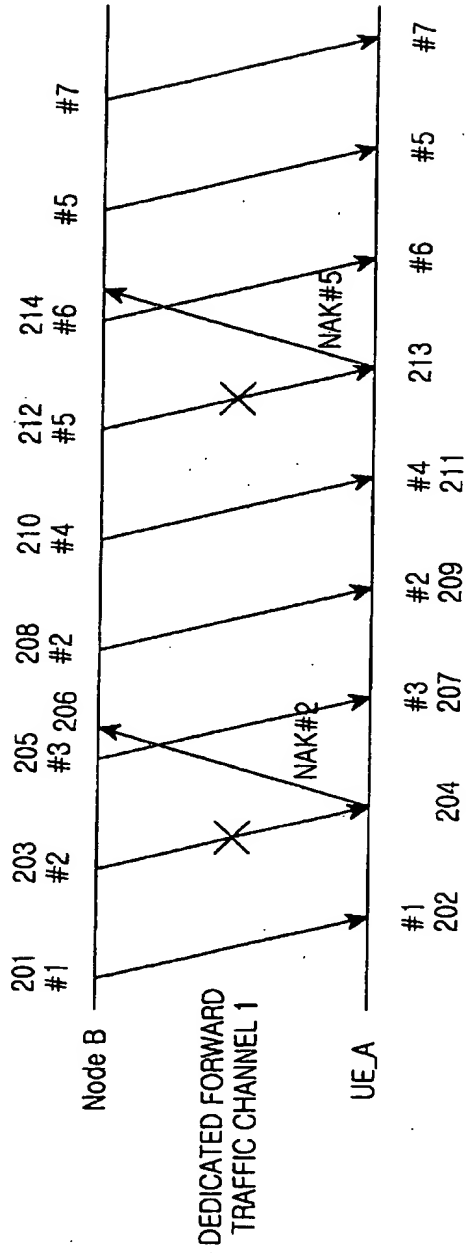


FIG. 2A
(PRIOR ART)

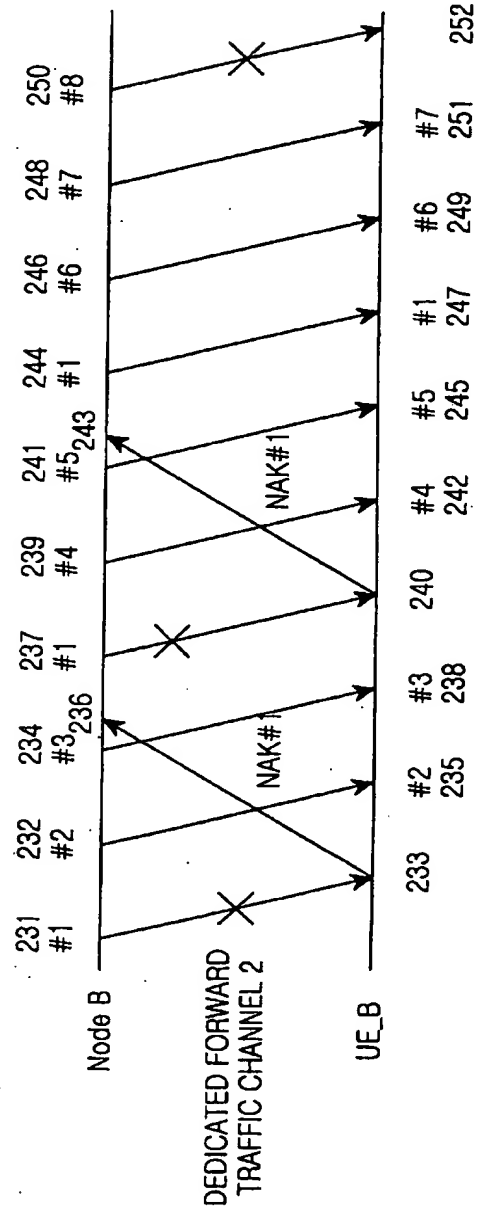


FIG. 2B
(PRIOR ART)

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REPLACEMENT DRAWING

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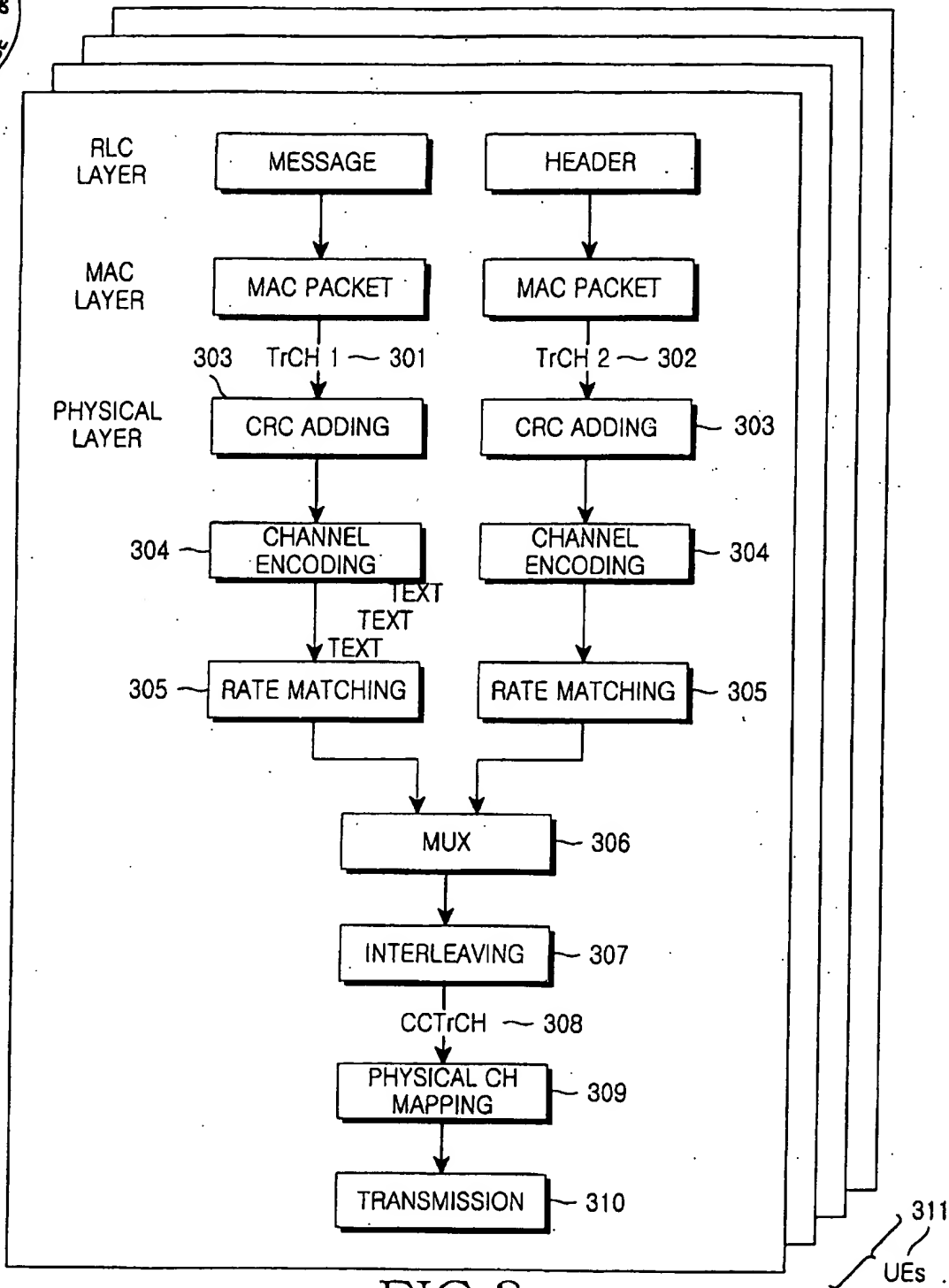


FIG.3
(PRIOR ART)



REPLACEMENT DRAWING

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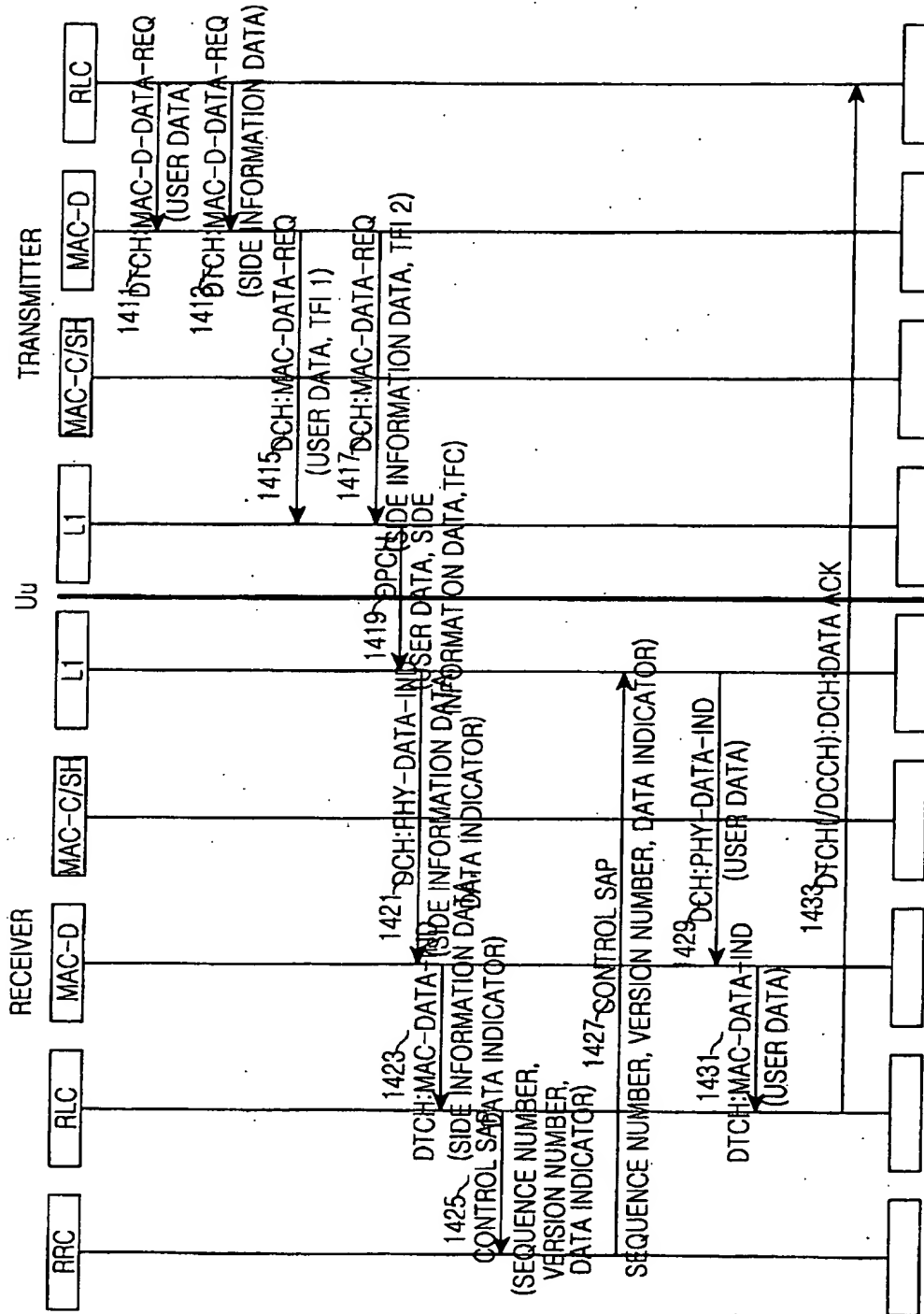


FIG.14
(PRIOR ART)

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